

back between the shoulder blades, hoarseness, loss of voice, sore throat, and bronchitis, with rattling in the windpipe and soreness of the chest, whereas the article would not be efficacious for such purposes; and, Section 502 (e) (1), the label failed to bear the common or usual name of the article, sodium bicarbonate.

DISPOSITION: On October 24, 1944, the defendant having entered a plea of not guilty, the case came on for trial before a jury. At the conclusion of the trial, the jury rendered a verdict of guilty, and on October 25, 1944, the court imposed a sentence of 6 months in jail, which was suspended, and placed the defendant on probation for 5 years.

1560. Misbranding of Thymus Arthritis Treatment, Liniodol, and Breasts of Youth Capsules. U. S. v. Dr. Jean Paul Fernel. Plea of not guilty. Tried to the court; verdict of guilty. Sentence of 1 year in jail, plus fine of \$500. Conviction affirmed on appeal. (F. D. C. No. 8819. Sample Nos. 14001-E, 61980-E, 80691-E, 82103-E.)

INFORMATION FILED: April 20, 1943, Northern District of Illinois, against Dr. Jean Paul Fernel, Chicago, Ill.; amended information filed October 25, 1943.

ALLEGED SHIPMENT: Between March 23 and July 4, 1942, from the State of Illinois into the States of California, Oregon, Ohio, and Florida.

PRODUCT: Analyses disclosed that the *Thymus Arthritis Treatment* was in the form of capsules containing salt and a mixture of glandular and plant materials; that the *Liniodol* consisted essentially of linseed oil, and that the *Breasts of Youth Capsules* contained glandular material and mineral matter including compound of aluminum and silicon.

NATURE OF CHARGE: *Thymus Arthritis Treatment*, misbranding, Section 502 (a), the name of the article was false and misleading since it represented and suggested that the article would be efficacious in the cure, mitigation, treatment, or prevention of arthritis, whereas it would not be efficacious for those purposes; and certain statements on the label of the article and in accompanying circulars entitled "Arthritis Diet" and "Arthritis and Its Modern Treatment" were false and misleading since they represented and suggested that the article, when used in conjunction with the diet recommended in the circular entitled "Arthritis Diet" and in accordance with the treatments recommended in the circular entitled "Arthritis and Its Modern Treatment," would be efficacious in the cure, mitigation, treatment, or prevention of arthritis, whereas the article, either alone or in conjunction with the diet, and when used as directed or otherwise, would not be efficacious for those purposes; and, Section 502 (e) (2), the label failed to bear the common or usual name of each active ingredient and the quantity or proportion of thyroid in the article.

Liniodol, misbranding, Section 502 (e) (1), the label did not bear the common or usual name of the article, linseed oil; and, Section 502 (f) (1), the label failed to bear adequate directions for use since the directions, "15 drops during the meal in one teaspoonful of lemon juice, taken three times daily," did not inform the reader of the use or uses for which the article was intended, and were therefore inadequate.

Breasts of Youth Capsules, misbranding, Section 502 (a), the name of the article and certain label statements were false and misleading since they represented and created the impression that the article would be efficacious to correct underdeveloped, atrophied, flabby, and pendulous breasts; that it would be efficacious to develop in the consumer the firm, well-developed breasts of youth; and that it would be efficacious to develop and nourish the bust or breasts, whereas the article would not be efficacious for those purposes; and, Section 502 (e) (2), the label of the article failed to bear the common or usual name of each active ingredient.

The *Breasts of Youth Capsules* and certain other articles known as *Essence No. 7*, *Fernel Nerve & Brain Food*, and *Endocrin Rejuvenation Food* were alleged to be misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

DISPOSITION: On November 10, 1943, the defendant having entered a plea of not guilty, the case came on for trial before the court. On November 16, 1943, the defendant was found guilty by the court and was sentenced to serve 1 year in jail and to pay a fine of \$500. Notice of appeal to the United States Circuit Court of Appeals for the Seventh Circuit was filed by the defendant on November 19, 1943, and on October 3, 1944, a decision was handed down by that court, affirming the decision of the district court.